

Introduced by Senator Alarcon

February 21, 2003

An act to amend Section 52 of the Civil Code, relating to civil rights.

LEGISLATIVE COUNSEL'S DIGEST

SB 872, as introduced, Alarcon. Civil rights: hate crimes.

Existing law provides various civil penalties for discrimination or distinction based on an individual's race, creed, religion, color, national origin, disability, or medical condition contrary to specified provisions relating to business practices.

This bill would provide that in any action by an individual seeking relief under the above provisions, proof of a hate crime conviction arising under the same incident alleged in the cause of action under these provisions would create a conclusive presumption that a violation of these provisions has been committed.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 52 of the Civil Code is amended to read:
2 52. (a) Whoever denies, aids or incites a denial, or makes any
3 discrimination or distinction contrary to Section 51, 51.5, or 51.6,
4 is liable for each and every offense for the actual damages, and any
5 amount that may be determined by a jury, or a court sitting without
6 a jury, up to a maximum of three times the amount of actual
7 damage but in no case less than four thousand dollars (\$4,000), and
8 any attorney's fees that may be determined by the court in addition



1 thereto, suffered by any person denied the rights provided in
2 Section 51, 51.5, or 51.6.

3 (b) Whoever denies the right provided by Section 51.7 or 51.9,
4 or aids, incites, or conspires in that denial, is liable for each and
5 every offense for the actual damages suffered by any person denied
6 that right and, in addition, the following:

7 (1) An amount to be determined by a jury, or a court sitting
8 without a jury, for exemplary damages.

9 (2) A civil penalty of twenty-five thousand dollars (\$25,000)
10 to be awarded to the person denied the right provided by Section
11 51.7 in any action brought by the person denied the right, or by the
12 Attorney General, a district attorney, or a city attorney.

13 (3) Attorney's fees as may be determined by the court.

14 (c) Whenever there is reasonable cause to believe that any
15 person or group of persons is engaged in conduct of resistance to
16 the full enjoyment of any of the rights described in this section, and
17 that conduct is of that nature and is intended to deny the full
18 exercise of those rights, the Attorney General, any district attorney
19 or city attorney, or any person aggrieved by the conduct may bring
20 a civil action in the appropriate court by filing with it a complaint.
21 The complaint shall contain the following:

22 (1) The signature of the officer, or, in his or her absence, the
23 individual acting on behalf of the officer, or the signature of the
24 person aggrieved.

25 (2) The facts pertaining to the conduct.

26 (3) A request for preventive relief, including an application for
27 a permanent or temporary injunction, restraining order, or other
28 order against the person or persons responsible for the conduct, as
29 the complainant deems necessary to ensure the full enjoyment of
30 the rights described in this section.

31 (d) Whenever an action has been commenced in any court
32 seeking relief from the denial of equal protection of the laws under
33 the Fourteenth Amendment to the Constitution of the United
34 States on account of race, color, religion, sex, national origin, or
35 disability, the Attorney General or any district attorney or city
36 attorney for or in the name of the people of the State of California
37 may intervene in the action upon timely application if the Attorney
38 General or any district attorney or city attorney certifies that the
39 case is of general public importance. In that action, the people of

1 the State of California shall be entitled to the same relief as if it had
2 instituted the action.

3 (e) Actions brought pursuant to this section are independent of
4 any other actions, remedies, or procedures that may be available
5 to an aggrieved party pursuant to any other law.

6 (f) Any person claiming to be aggrieved by an alleged unlawful
7 practice in violation of Section 51 or 51.7 may also file a verified
8 complaint with the Department of Fair Employment and Housing
9 pursuant to Section 12948 of the Government Code.

10 (g) This section does not require any construction, alteration,
11 repair, structural or otherwise, or modification of any sort
12 whatsoever, beyond that construction, alteration, repair, or
13 modification that is otherwise required by other provisions of law,
14 to any new or existing establishment, facility, building,
15 improvement, or any other structure, nor does this section
16 augment, restrict, or alter in any way the authority of the State
17 Architect to require construction, alteration, repair, or
18 modifications that the State Architect otherwise possesses
19 pursuant to other laws.

20 (h) *In any action by an individual seeking relief under this*
21 *section, proof of a hate crime conviction pursuant to Title 11.6*
22 *(commencing with Section 422.6) of Part 1 of the Penal Code*
23 *arising under the same incident alleged in the cause of action*
24 *under this section shall create a conclusive presumption that a*
25 *violation of this section has been committed.*

26 (i) For the purposes of this section, “actual damages” means
27 special and general damages. This subdivision is declaratory of
28 existing law.

